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February 16, 2024

VIA CM/ECF

Honorable Ona T. Wang
United States Magistrate Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Frank Liu vs. The Nielsen Company (US), LLC, et al.; Case No.: 1:22-cv-09084-JHR-OTW

Dear Judge Wang:

On behalf of defendants The Nielsen Company (US), LLC and TNC US Holdings (collectively, “Defendants”), we write to briefly provide clarification regarding the timing and sequencing of the motion practice addressed by Plaintiff Frank Liu in his letter to the Court, dated February 13, 2024. (ECF No. 59.) Defendants filed their Motion to Dismiss Plaintiff’s initial Complaint on May 23, 2023. (ECF No. 28.) As noted by Plaintiff in his letter to the Court, Defendants included in their Notice of Motion the time period for an opposition to the Motion to Dismiss pursuant to Rule 11 of Judge Rearden’s Individual Rules and Practices in Civil Pro Se Cases: “Please take further notice that pursuant to Rule 11 of the Court’s Individual Rules and Practices in Civil Pro Se Cases, answering papers are due to be served within four (4) weeks of service of this motion.” (ECF No. 28.)

Rather than oppose the Motion to Dismiss, Plaintiff instead filed an Amended Complaint. (ECF No. 44.) Pursuant to Rule 15(a)(1)(A) of the Federal Rules of Civil Procedure, Plaintiff had twenty-one days from service of Defendants’ Motion to Dismiss to file that Amended Complaint, specifically until June 13, 2023. However, Plaintiff filed his Amended Complaint on June 20, 2023, seven days late. Although his Amended Complaint was untimely, Defendants have never opposed the Court accepting Plaintiff’s Amended Complaint, including at the parties’ December 20, 2023 status conference with the Court. During that conference, the Court accepted Plaintiff’s Amended Complaint and set a briefing schedule for Defendants’ renewed motion to dismiss, which required Defendants to file their motion by January 26, 2024. Defendants followed this schedule and submitted their Motion to Dismiss the Amended Complaint on that date. (ECF No. 53.)

Thank you for your consideration of the foregoing.

WINSTON
& STRAWN
LLP

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Dated: Chicago, Illinois
February 16, 2024

Respectfully submitted,

Cardelle B. Spangler

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cc: Plaintiff Frank Liu